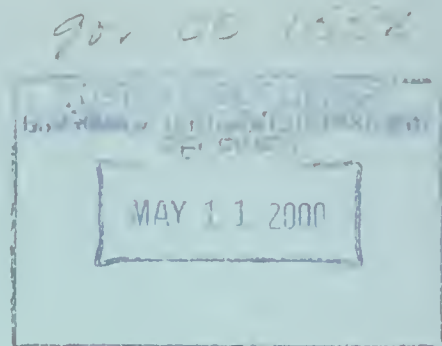


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THE ADMINISTRATION OF WORKERS' COMPENSATION
IN THE CITY OF BOSTON

INTRODUCTION

Most employees in the Commonwealth have some form of workers' compensation insurance protecting workers' income should the employee be injured at work. The protections are mandated by law. Police officers and firefighters are covered for job related injuries by Massachusetts General Laws (MGL), Chapter 41. All other employees are provided for under the Workers Compensation Statute, MGL Chapter 152.

The expense of workers' compensation to the City of Boston is presently \$10.9 million annually. It is accounted for in three ways. There is an annual appropriation to a Workers' Compensation Fund (\$3.8million), direct charges to departmental budgets for employee benefit payments (\$6.6 million) and the administrative cost of the budget of the Office of Workers' Compensation (\$511,400).

Presently, there are 268 people receiving workers' compensation benefits from the City of Boston. Eighty-one employees incurred permanent job related injuries. One hundred and sixty employees incurred temporary injuries and are expected to return to work. An additional 27 people are survivors of deceased city employees who continue to receive benefits.

The administration of Mayor Thomas Menino appointed a new workers' compensation agent, Patricia Morey Walker, in October, 1994. In February, 1995, citing the findings of an internal audit, the administration charged that workers had defrauded the City of Boston of millions of dollars in benefits over the previous ten years.

The Finance Commission reviewed the management and the costs of workers' compensation. The findings included in this report differ from those identified by the City this past February, particularly the charges that the City was defrauded of millions of dollars. There was no audit and no documented cases of fraud. Furthermore, claims that new procedures introduced following the audit reduced benefits by about \$800,000 was also false. During the course of this review the Commission analyzed the administrative changes in the Office of Workers' Compensation since 1988. Expenses were reviewed. The staff of the Commission visited people receiving benefits including many who have been receiving benefits for over ten years.

Findings

1. The cost of workers' compensation payments to the City of Boston has been reduced over the past seven years. In 1988, the City of Boston hired a risk management firm to study and make recommendations for improving the City's workers' compensation program. The principal conclusion of that study was that the City should be able to reduce its workers' compensation costs by one third or more within three years. While that has not occurred, the City has begun to control costs. The fiscal year 1995 costs will be \$10.9 million, a reduction from the \$11.8 million spent in fiscal year 1991. When cost of living adjustments are included, it is clear that the City has reduced the expense of Workers' Compensation.

2. Costs are down because there has been a reduction in the number of employees receiving compensation. Currently there are 268 people receiving compensation. There were 552 employees receiving benefits in October 1989. That is a 51.5% decrease in the actual number of people receiving benefits. The expense to the City does not show a corresponding percentage decrease because the employee payroll includes cost of living increases.

3. The City employed Corporate Systems Limited of Amarillo, Texas to provide an on-line risk management computer system on a time shared basis in December, 1991. The contract cost the City \$611,415. While it computerized the system for the first time and helped control costs, it was a costly contract and fell short of meeting the City's needs. A new system is being introduced presently.

4. Despite reports to the contrary there has been no audit of workers' compensation costs. There is no basis for claims that the City of Boston was defrauded of millions of dollars. The "Workers' Compensation Fact Sheet" produced by the City to support its claims was full of inaccuracies.

5. During the tenure of compensation agent, Ms. Alyson Haley, the number of employees receiving benefits was reduced by over 50%. She introduced the concepts of modified work and



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light duty and worked with departments to implement back-to-work procedures. Ms. Haley employed outside private investigators to monitor questionable claims and she also enhanced department systems by introducing an on-line computer system.

6. Despite the above mentioned improvements, there were areas where more attention was needed. The current agent, Ms. Morey Walker, ordered a file review (not to be confused with an audit) of all outstanding cases and found that many long-term cases had not been reviewed recently. Under her direction there is renewed emphasis on monitoring every case which has resulted in the removal of several people from workers' compensation payrolls. The expensive computerized on-line tracking system contract has been eliminated and replaced with a more efficient personal computer system with enhanced software.

7. There are numerous older cases with curious histories. Many of them were poorly handled by the City. The City lost cases that should have been settled, received negative judgements and sometimes used no alternative work options. There were people who were granted workers' compensation benefits as a means of solving other work related issues. The City is in the process of revisiting many of these cases.

8. One of the major problems remaining is the lack of full financial accountability for employees receiving workers' compensation benefits. The \$3.8 million Workers' Compensation Fund is used excessively to support departmental activities. Consultants, part time employees, outside investigators and other miscellaneous expenses are charged to the fund. Personnel costs are not always charged back to the original department.

ADMINISTRATION OF WORKERS' COMPENSATION

The relevant history of workers' compensation dates back to 1988. Prior to that management of the system was lax. There were inadequate controls, no computerization, no financial incentives to keep people working and no risk management plan that drove the management of the system. There were numerous employees placed on compensation with questionable claims. Problem employees were allowed to receive benefits as opposed to going back to work. The city did not have good systems in place and lost cases that should have been resolved. There are people receiving benefits to this day who could have been retained with light duty or alternative work options had they existed.

The City hired Lynch, Ryan and Assoc., Inc., a risk management consultant, in 1988 to review the system and make recommendations to the city. Its recommendations were the basis for implementation in the way the City of Boston managed workers' compensation. The major conclusion of the study was that the City of Boston will be able to reduce its workers' compensation costs by one-third or more within three years. While those savings never materialized, costs have been controlled.

There were 366 active cases at the time of the Lynch, Ryan and Assoc. study. There were an additional 96 permanent cases. About 200 of those cases had been open for over a year. The number of employees out for extended periods of time was high, much higher than industry standards and was the basis for the recommendation that costs could be cut significantly.

Lost time cases were analyzed. It was determined that only 7% of all cases involved severe injuries. The remaining cases should have been temporary out of work situations and been closed within two to four weeks. The recommended course of action to resolve the above problem was improved coordination of medical care for injured workers, more options for affected employees and the introduction of automation.

The majority of workers' compensation cases originate in a few departments. In 1988 there were five line departments that were responsible for 80% of the open cases:

Health and Hospitals	-----	137
School	-----	114
Penal	-----	39
Transportation	-----	38
Public Works	-----	38

The same five departments generate the most Workers' Compensation cases. Overall they include 224 cases of the total 268 or 83.6%

Health and Hospitals -----	76
School Department-----	87
Penal -----	29
Transportation-----	13
Public Works -----	19

The one group of employees cited by Lynch, Ryan as having the highest percentage of employees on compensation were school custodians. Over 5% of the 450 custodians were receiving compensation. It remains the most problematic group of employees. Currently there are 25 of 372 custodians receiving workers' compensation benefits, 6.72% of the workforce.

Some departments do a good job managing workers' compensation. The the Suffolk County House of Correction and Jail, for example, have a good program despite a high number of people receiving benefits. Other departments have not paid attention to the costs of compensation and several are unaware that they even have people out on compensation. There are twelve departments which are not charged the personnel costs of workers' compensation. Two departments are no longer part of the City of Boston: the Boston Water and Sewer Commission and the Suffolk County Courthouse and one department, the Office of Property Equalization, no longer exists. Nine departments are not charged for their employees on permanent status nor are those departments charged for any survivors of those employees.

FINANCIAL IMPACT

The financial impact to the City of Boston due to Workers' Compensation is substantial. The expense is found in three areas.

FY 1995 Worker Comp budget ---	\$511,400
Workers Comp Fund -----	\$3,800,000
Dept. expenses on W.C. -----	\$6,552,916
Total-----	\$10,864,316

There is an additional financial loss to the City. The department where the employee worked needs to replace the employee.

Since fiscal year 1992 the Workers' Compensation Fund has expended or is expected to expend the following amounts:

'92 actual	\$4,391,449
'93 actual	3,818,663
'94 actual	4,261,720
'95 projected	3,800,000
'96 recommended budget	3,729,000

One of the major financial recommendations made by Lynch Ryan and agreed to by the City involved "refinements" in the use of the fund. The recommended change was to limit expense to direct case related matters, awards and settlements. Line departments would be fully responsible for payroll and medical benefits. That recommendation was not implemented. There are administrative expenses, personnel costs, outside contracts and direct payroll costs which continue to be charged to the fund.

Various city departments which have had injured employees have spent the following amounts over the past four years:

'92 actual	\$7,181,520
'93 actual	6,770,608
'94 actual	6,390,994
'95 projection	6,552,916

Interestingly, Lynch Ryan made the following financial projections of where the City would be with its costs:

FY '88	FY '89	FY '90	FY '91
\$6,165	\$5,641	\$4,966	\$4,621

The actual net costs since 1988 are:

FY '88	FY '89	FY '90	FY '91
\$7,487	\$9,686	\$10,783	\$10,510
FY '92	FY '93	FY '94	FY '95
\$10,565	\$11,040	\$10,966	\$10,864

The cost of workers' compensation is better controlled. The fiscal year 1995 expense is less than those of any of the preceeding four years. Furthermore, it includes cost of living increases that are reimbursed by the State. Since 1991 the following amounts have been reimbursed for cost of living increases:

1991 actual	\$2,175,063.
1992 actual	\$1,297,640.
1993 actual	\$1,135,513.
1994 actual	\$ 813,881.
1995 projected	\$1,300,000.
1996 budget	\$1,300,000.

There are 81 employees receiving permanent benefits and 27 survivors of employees who are deceased receiving benefits.

A permanent case is a misnomer. MGL Chapter 152, Section 31 provides that an employee who is injured and where the injury is determined to be a permanent one, will receive compensation equal to two-thirds of the average weekly wage earned prior to the injury. At the same time, the law recognizes that injuries may heal and that in time an employee may be able to return to work. It allows for an annual review of every case. This is the area identified as a management weakness by Ms. Morey Walker following full case reviews.

The City is also responsible for paying survivor benefits to the dependent of employees where death resulted from the injury. These benefits are not necessarily permanent. A spouse who remarries is no longer eligible for benefits and dependent children are eligible in most cases until they reach eighteen years of age. Recent case reviews found two survivors receiving benefits who were no longer eligible. Both people have been removed from the workers' compensation payroll. Neither case is being pursued for repayment.

The City also pays out a number of large cash settlements. Since July of 1994 seven settlements have been paid totaling \$310,000. Several settlements were solely due to poor management by the City. They resulted in damages,

interest and the continued weekly salary payment. For example, a School Department employee received a 1994 settlement of \$230,000. The City had virtually ignored the claims of the employee and the Industrial Accident Board found that the City had acted negligently. In addition, the City failed to pay when ordered thus incurring penalties which doubled the cost. In another case a former Courthouse custodian was found to have been treated inappropriately by the City. The settlement was \$192,500 paid in 1994. The weekly compensation, including cost of living increases, has doubled to over \$900 a week payable for life.

One of the major improvements implemented by the City was computerizing workers' compensation records. The City entered into a contract with Corporate Systems Limited of Amarillo, Texas to provide a risk management computer system on a time shared basis in December, 1991. It was a bid contract and awarded in the amount of \$477,624. An amendment to that contract in September, 1994 brought the cost to \$611,415. The system managed claims administration, medical claims management and vendor payments.

While the system was a vast improvement, it never fully met the needs of the City. It was also an expensive system and it should have been scrapped much earlier than has been the case. It was a main frame based system with an out of state company. Adjustments were not made easily or expeditiously and the City continued paying for a service with which it was not satisfied.

Instead of identifying an alternative system the City did nothing and ultimately amended the existing agreement. The City awarded the amended agreement on a so-called emergency basis, the emergency being one of inaction.

A new system has been purchased and is being put in place at this time. The hardware includes a personal computer network with software that will better allow for claims management at a more affordable cost.

Workers' Compensation can be a hot topic. There are some interesting cases, some which stretch the limits of believability. Yet the key to managing the program is the development and subsequent implementation of a risk management plan for all workers. The Menino Administration is taking an aggressive approach with which the Commission concurs.

However, the Commission was astonished to read about an internal audit that allegedly identified millions of dollars of fraudulently paid claims. There was no audit of the workers' compensation system. There were no findings of fraud and nothing that would support a charge that \$1 million annually had been misspent for the past ten years.

A "Workers' Compensation Fact Sheet" produced by the Administration took some liberties with the recent history of workers' compensation. The so-called audit was actually a case review. The reason cited for decreased costs were put in place by the previous administration.

The recent charges unfairly criticized the efforts of the previous administration and the previous workers' compensation agent. The truth is that management had improved. Alyson Haley was the workers' compensation agent for the City until September, 1994. She should be credited with introducing improvements and controlling costs. The number of employees receiving benefits dropped by over 50%. She computerized the department and worked with city departments to introduce light and modified duty work as an option to compenstion.

Despite the progress made over recent years a major shortcoming was found in reviewing cases. Too many cases had not been reviewed and/or updated in recent years. The so-called permanent cases were retained without review. The city should have cancelled its computer contract when the vendor could not produce the enhancements needed to improve internal management.

Patricia Morey Walker was appointed in October, 1994 as the new workers' compensation agent. She has a background with the City having worked in workers' compensation management with the School Department and has expertise in vocational rehabilitation. The Commission has been impressed with her resolve to move the system forward. She ordered the case review and is changing computer systems.

While the key to effective management is the creation of a comprehensive program, there are some interesting stories of people receiving benefits. There is a disability syndrome in some people and there were some questionable cases.

One employee, considered to be a problem employee by his direct supervisor, was laid off by the city fourteen

years ago. The lay off was due to budgetary problems and when the new fiscal year started the employee was called back to work. Within three days of his call back he was "injured" and remains out. He is currently on permanent workers' compensation status and is able to spend his winter months, from October through April in Florida. The City was unaware of that until notified by the Commission. The weekly compensation check arrives by mail at his local home address, is retrieved by a neighbor and mailed to his Florida home.

Several injured employees "coincidentally" share the same last name. More coincidentally they share the same home address. Two of these cases involve a mother and her son who both worked for the same City department. The injuries did not occur at the same time. The case reviews resulted in both being dropped from Workers' Compensation.

Two employees with different last names were listed with the same home address. The house is a single family residence with several different mailboxes. One employee has gone back to work. The other case is now in litigation.

There is a case of an employee who claimed an injury several days after a fire incident. Reports filed by the Fire Department indicate that there were no injuries. There were no witnesses to the injury. The employee was well connected politically. He had other health problems prior to this incident yet those were not taken into consideration. The case was handled poorly on the City's part. The time since the injury, 14 years, is so long ago nothing can be done at this point. The employee is physically unable to work and a different determination to the cause is not practical. The injury was questionable at the time. If light or modified duty been available this would have been an appropriate case for it.

There is also a case where an injured employee was placed on temporary workers' compensation and the Agent at the time noted that the employee would be returned to work shortly. Twelve years later that employee is receiving benefits although the case is being reviewed.

Every case is different. Some involve injuries that are so severe that the employee will never be able to return to work. Workers' Compensation is for those employees and for their dependents. With some exceptions, the Commission found that most cases involve legitimate work related injuries.

RECOMMENDATIONS

1) The City should create financial integrity within the workers compensation system. All employee expenses should be charged to originating department, including medical costs.

2) A check audit should be implemented to assure that checks are directly presented to the injured party.

3) Currently it is more difficult to investigate abuses than should be the case. The City should institute a policy of photographing all employees who go out on compensation. It would further serve the city's interest to retain a photo of all city employees and/or adopt a photo identification system.

4) The staff of the Workers' Compensation Office should be restructured to include in-house investigators.

5) Workers' Compensation payments to employees should be restructured so that a check is not forwarded from one address to another. There are employees receiving checks out of state. These people should also be subject to a check audit.

6) A telephone hot line should be set up and advertised. There is always the possibility of a fraudulent claim and having a phone line or "Tipster Line" available can help identify those cases. This will let the general public know that action will be taken.

7) Along with the required earning's statement an independent income tax return should be required. A copy of the Federal return should be submitted directly to the City by the IRS at the request of the employee.

